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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANSELMO FAUSTINO CASTILLO,

Defendant and Appellant.

H042897

(Santa Cruz County

Super. Ct. No. F27435)

Defendant Anselmo Faustino Castillo appeals from a judgment following his guilty plea to assault with a deadly weapon. The charges arose from the stabbing of Omar Martinez on August 17, 2014. On that day Martinez was “hanging out” with his next-door neighbor in Santa Cruz, Clyde Ortega. Defendant, whom Martinez recognized from high school, walked up with about three other men and said, “What’s up?” Martinez answered, “What’s up” and then felt a “punch” as defendant stabbed him on the side of his stomach. Martinez’s injury required two surgeries, each followed by a week’s hospital stay. At the preliminary hearing Martinez explained that when he was in high school he associated with the Sureño street gang, but after graduation, five years earlier, he stopped. He knew defendant to be a member of the “Northside” gang, but he had not had problems with defendant before.

Travis Ahlers, a detective with the Santa Cruz Police Department, testified as a gang expert. He expressed the opinion that defendant was an active member of the Norteño criminal street gang, within the meaning of Penal Code section 186.22,

subdivision (f).¹ Defendant had tattoos on his forearms which Ahlers recognized as ones associated with the Norteños, and he had previously been found in the company of another Norteño gang member. Norteños regarded the location of the Martinez stabbing as a place associated with Sureños. One of the ways Norteños derived respect was to commit crimes in Sureño territory to intimidate Sureño gang members and instill fear in the community. Going into Sureño territory and assaulting a present or past Sureño would benefit a Norteño or his gang.

Defendant was charged by information with attempted premeditated murder (§§ 664; 187, subd. (a)) and assault with a deadly weapon (§ 245, subd. (a)(1)). The information further alleged that defendant had personally used a deadly weapon, a knife (§ 12022, subd. (b)(1)); that he had personally inflicted great bodily injury on Martinez (§ 12022.7, subd. (a)); and that he had committed the crimes for the benefit of a criminal street gang, the Norteños. (§ 186.22, subd, (b)(1)).

On June 26, 2015, defendant waived his trial rights and pleaded guilty to count 2, the assault with a deadly weapon, and he admitted the great bodily injury and gang enhancements. The parties anticipated a stipulated sentence of 12 years in prison, and defendant waived his right to contest the plea bargain on appeal.

The court sentenced defendant on August 27, 2015 in accordance with the plea agreement to the low term of two years, plus ten years for the gang enhancement. An additional three-year term for the great bodily injury enhancement was stayed, and the court dismissed the remaining allegations. Defendant was awarded sentence credit for 373 actual days and 47 conduct days for a total of 420 days. Finally, the court ordered defendant to pay a court operations fee of \$40, a facility fee of \$30, a \$300 restitution fine (§ 1202.4, subd. (b)), and a second \$300 restitution fine. The second restitution fine

¹ All further statutory references are to the Penal Code unless otherwise indicated.

was stayed pending successful completion of parole, pursuant to section 1202.45, subdivision (b). Judgment was entered the following day. Defendant filed a notice of appeal on October 19, 2015 and obtained a certificate of probable cause on November 4, 2015.

Appointed appellate counsel has filed an opening brief that states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument on his own behalf but has not availed himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, 123-124, we have carefully reviewed the entire record and have concluded that there are no arguable issues on appeal.

DISPOSITION

The judgment is affirmed.

ELIA, ACTING P.J.

WE CONCUR:

BAMATTRE-MANOUKIAN, J.

MIHARA, J.